THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10369 of 2007

Dated:06.07.2007

Between:

Sugali Gopi Naik.

…PETITIONER

and

The Revenue Divisional Officer, Penukonda,
Anantapur District, and another.

…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner was assigned land admeasuring Acs.4.82 in survey No.38-2 situated at Hussainpuram Village, Chilamathur Mandal, Anantapur District. He obtained such assignment on 20.05.2006 claiming himself to be a landless and poor person. By impugned order dated 29.03.2007, first respondent, namely, the Revenue Divisional Officer (RDO), Anantapur District, cancelled the assignment and directed second respondent, namely, the Mandal Revenue Officer (MRO), Chilamathur Mandal, to take possession of the land. Aggrieved by the same, instant writ petition is filed seeking invalidation of the order of RDO.

A perusal of the affidavit accompanying the writ petition and the impugned order would reveal the following. The land in survey No. 38-2(Acs.4.82) was originally assigned on 11.06.1986 to one Vaddi Ramappa, father of third respondent. After his death, third respondent appears to have raised horsegram crop. MRO, having noticed that she (third respondent) already got some property at Dadireddipalli Village, Hamlet of Hussainpuram, by order dated 17.04.2006, cancelled the assignment and resumed the land. This land was reassigned to the petitioner on 20.05.2006. It appears that the Sarpanch of Veerapuram Village of said Mandal, filed a petition before the District Collector, which was forwarded to RDO. On the petition, MRO submitted a report, *inter alia*, stating that the petitioner as well as his wife Smt.Saki

Bai also own other properties in survey No.14-2 (Acs.5.16) situated at Veerapuram Village and survey No.984-6 (Acs.3.59) situated at Chilamathur Village respectively. Therefore, after perusing the report, RDO came to the conclusion that the petitioner is not eligible for assignment of the land in survey No.38-2 and accordingly accepting the recommendation made by MRO, cancelled the assignment.

Two submissions are raised in support of the writ prayer. First, if an assignment is made irregularly or assignment is obtained on fraud and misrepresentation, it is only the Joint Collector, who is competent to cancel the assignment as per BSO 15(18) of the Andhra Pradesh Board of Revenue Standing Orders. Secondly impugned order was not preceded by any notice, thereby violating the principles of natural justice.

The learned Assistant Government Pleader for Revenue (Assignment) and the learned counsel for third respondent,
Sri N.V.Ramana, submit that the assignment made in favour of the petitioner after cancellation of the assignment in favour of Vaddi Ramappa itself is irregular and therefore, the impugned order is unsustainable. They, however, do not dispute incompetency of RDO or the violation of the principles of natural justice on these two grounds. Therefore, the impugned order dated 29.03.2007 is unsustainable and the same is accordingly set aside. Liberty is, however, given to the Joint Collector, Anantapur, to enquire into the matter and pass appropriate orders. It shall also be open to third respondent, if so advised, to file a formal appeal before RDO under BSO 15(15) of the Andhra Pradesh Board of Revenue Standing Orders within a period of two weeks from the date of receipt of a copy of this order. In the event of such appeal being filed by third respondent, needless to say, RDO shall issue notice to the petitioner, third respondent and all other persons interested and pass appropriate orders in accordance with law.

The writ petition, with the above observations, is accordingly allowed. No costs.

(V.V.S.RAO, J)

06th July, 2007
ghn